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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,701	08/28/2000	Armand Nachef	T2147-906522	6874

7590 12/22/2005  
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EXAMINER
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ROCHE, TRENTON J

ART UNIT	PAPER NUMBER
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2193

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/582,701

Applicant(s)

NACHEF ET AL.

Examiner

Trenton J. Roche

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-14,16-19,21-23,25-27,29-32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14,16-19,21-23,25-27,29-32 and 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Office action is responsive to communications filed 18 October 2005.
2. Per Applicants' request, amended claims 11 and 29 have been entered. Claims 24 and 28 have been canceled. Claims 11-14, 16-19, 21-23, 25-27, 29-32 and 34-37 are now pending.
3. Claims 11-14, 16-19, 21-23, 25-27, 29-32 and 34-37 have been examined.

### *Response to Arguments*

4. Applicants' arguments filed 18 October 2005 have been fully considered but they are not persuasive. In response to Applicants' arguments, the newly added limitation regarding the class derivation occurring prior to run-time has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Furthermore, even were the "prior to run-time" limitation given patentable weight, the limitation does not change or affect in any way the method steps for the purpose of reflecting how the process being performed prior to run-time is any different from the process being performed during run-time. Moreover, nothing in the body of the claim precludes the recited limitations from occurring during run-time. Due to the fact that the claim utilizes comprising language, the possibility exists that the method steps of making an independent copy of a tree, storing the copy of the tree, and changing the name could very well occur during run-time. The open-ended language of the claim

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exposes the possibility that the steps for deriving a class prior to run-time have not been claimed yet, since the body of the claims do not support the desired results of the preamble, and that in addition to those missing “prior to run-time” steps, the steps of copying, storing and renaming occur during run-time. Consequently, the newly added limitation fails to further limit the claim in any way, and the rejection of claims 11-14, 16-19, 21-23, 25-27, 29-32 and 34-37 is proper and maintained.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 11-14, 16-19, 21-23, 25-27, 29-32 and 34-37 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,052,526 to Chatt.

### **Regarding claim 11:**

Chatt teaches:

- making an independent copy of an entire tree of the class, (“The generated C++ class inherits from the abstract base class...” in col. 4 lines 33-34. The generated class is a copy of the abstract base class and all of its associated attributes)
- the class including an instance of a generic attribute class and an instance of a generic method class, the instance of the generic method class including an instance of a generic

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parameter class (“The public methods of the base class are limited to its destructor and a pure virtual ‘clone’ method to be provided by subclasses...The protected methods include the construct and copy functions...” in col. 4 lines 37-40)

- storing the copy of the tree, and changing said first given name in order to assign a second name to the stored copy as claimed, the independent copy including a table specifying at least one parent of the independent copy and all ascendants of the independent copy, if any (“The generated C++ class inherits from the abstract base class...” in col. 4 lines 33-34. The copy of the abstract base class is given a different name from the abstract base class, as seen in col. 5 lines 50-68, and also specifies the parent base class.)

substantially as claimed.

**Regarding claim 12:**

The rejection of claim 11 is incorporated, and further, Chatt teaches a copy made through a serialization of the tree representing said class or said object as claimed (“The generated C++ class inherits from the abstract base class...” in col. 4 lines 33-34)

**Regarding claim 13:**

The rejection of claim 11 is incorporated, and further, Chatt teaches inheritance of the class as claimed (“inherits from the abstract base class...” in col. 4 lines 33-34)

**Regarding claim 14:**

The rejection of claim 11 is incorporated, and further, Chatt teaches instantiation as claimed. Note the rejection regarding claim 11.

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**Regarding claim 16:**

The rejection of claim 11 is incorporated, and further, Chatt teaches automatically generating the class by means of a tool having at least one dialog box as claimed. (“compilers that would automatically map...” in col. 2 lines 21-22)

**Regarding claim 17:**

The rejection of claim 16 is incorporated, and further, Chatt teaches implementing the derivation by a computer designer, and using a command interface of a computer system as claimed (Note the rejection regarding claim 1. The abstract base class is implemented by a computer programmer.)

**Regarding claim 18 and 19:**

The rejection of claim 12 is incorporated, and further, note the rejection regarding claims 13 and 14, respectively.

**Regarding claims 21-23:**

The rejections of claims 12-14 are incorporated, respectively, and further, note the rejection regarding claim 16.

**Regarding claims 25-27:**

The rejections of claims 21-23 are incorporated, respectively, and further, note the rejection regarding claim 17.

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**Regarding claims 29-32 and 34-37:**

Claims 29-32 and 34-37 do not further disclose or teach any new matter beyond that which is disclosed in claims 11-14, 16 and 17, and are therefore rejected for the reasons set forth in connection with claims 11-14, 16 and 17.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trenton J Roche  
Examiner  
Art Unit 2193

TJR

A handwritten signature in black ink, appearing to read "John Chavis".

JOHN CHAVIS  
PATENT EXAMINER